

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of	:	Customer Number: 20277
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Soichiro OGAWA	:	Confirmation Number: 5384
	:	
Application No.: 10/505,226	:	Group Art Unit: 1795
	:	
Filed: August 20, 2004	:	Examiner: RINER, Phoebe D.
	:	
For: FUEL CELL SYSTEM AND PROTECTION METHOD THEREOF	:	

**RESPONSE TO RESTRICTION REQUIREMENT**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Noting the Office Action of August 4, 2008 wherein restriction has been required, Applicant hereby elects Group I, Species I-1, claims 1-15 readable thereon with traverse for prosecution in the above-identified application.

The restriction is traversed because it is improper. Contrary to the Examiner's assertions, the different groups and species do not lack unity of invention, and are linked so as to form a single inventive concept under PCT Rule 13.1. According to PCT Rule 13.1, the unity of inventions requirements will be fulfilled if there is a technical relationship among the inventions involving one or more of the same or corresponding special technical features. There is such a technical relationship among the inventions in the present application.

Claim 1 requires a controller functioning to compute a first energy amount required when the system is protected by a first protection mode which prevents freezing of water in the system by heating water supplied to the fuel cell when the fuel cell has stopped, and a second energy

amount required when the system is protected by a second protection mode which prevents freezing of water in the system by discharging water from the fuel cell when the fuel cell has stopped, respectively based on the estimated restart time and outside air temperature shift, select the first protection mode when the first energy amount is less than the second energy amount, and select the second protection mode when the first energy amount is larger than the second energy amount as a protection mode used when the fuel cell has stopped, and protect the system with the selected protection mode.

Claim 16 requires computing a first energy amount required when the system is protected by a first protection mode which prevents freezing of water in the system by heating water supplied to the fuel cell when the fuel cell has stopped, and a second energy amount required when the system is protected by a second protection mode which prevents freezing of water in the system by discharging water from the fuel cell when the fuel cell has stopped, respectively based on the estimated restart time and outside air temperature shift, selecting the first protection mode when the first energy amount is less than the second energy amount, and selecting the second protection mode when the first energy amount is larger than the second energy amount as a protection mode used when the fuel cell has stopped, and protecting the system with the selected protection mode.

Claim 17 requires means for computing a first energy amount required when the system is protected by a first protection mode which prevents freezing of water in the system by heating water supplied to the fuel cell when the fuel cell has stopped, and a second energy amount required when the system is protected by a second protection mode which prevents freezing of water in the system by discharging water from the fuel cell when the fuel cell has stopped, respectively based on the estimated restart time and outside air temperature shift, means for

selecting the first protection mode when the first energy amount is less than the second energy amount, and select the second protection mode when the first energy amount is larger than the second energy amount as a protection mode used when the fuel cell has stopped, and means for protecting the system with the selected protection mode.

Clearly claims 1, 16, and 17 all share a corresponding special technical feature. The Examiner, however, alleged that the Groups lack the corresponding technical feature because WO/02/01662 discloses a fuel cell system in which a heating element has an integrated thermosensor, which can prevent the temperature of the fuel cell system from dropping below the freezing point of the electrolyte. While WO/02/01662 may teach the thermosensor as asserted by the Examiner, WO/02/01662 does **not** disclose a controller which functions to select the first protection mode when the first energy amount is less than the second energy amount, and select the second protection mode when the first energy amount is larger than the second energy amount as a protection mode when the fuel cell has stopped, and protect the system with the selected protection mode, as alleged by the Examiner. If the Examiner maintains the restriction, it is respectfully requested the Examiner explain, with specificity, where WO/02/01662 teaches the claimed special technical feature.

It should be noted that the unity of inventions requirements was also examined by the International Searching Agency (ISA) in the international phase in accordance with PCT Rule 13.1 and ISA found that the unity of inventions requirement of the present application was fulfilled.

For the reasons explained above, Applicants respectfully submit that the restriction requirement should be withdrawn, and claims 1-17 examined on the merits.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

A handwritten signature in cursive script, appearing to read "Bernard P. Codd".

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